

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

**COMMAND AUDIT OF
SANTA CRUZ AREA**



FINAL REPORT

OCTOBER 7, 2010

M e m o r a n d u m

Date: October 7, 2010

To: Office of the Commissioner
Attention: Commissioner J. A. Farrow

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Office of Inspector General

File No.: 010.13424.A13471

Subject: FINAL 2009 COMMAND AUDIT REPORT OF SANTA CRUZ AREA

In accordance with the *International Standards for the Professional Practice of Internal Auditing* §2440, issued by the Institute of Internal Auditors, Government Code §13887(a)(2), and the California Highway Patrol Audit Charter, I am issuing the 2009 Command Audit Report of the Santa Cruz Area. The audit focused on the Driving Under the Influence and Asset Forfeiture Programs of the command.

The audit revealed the command has adequate operations. However, some issues were observed. This report presents suggestions for management to improve on some operations. In doing so, operations would be strengthened and the command would ensure it is operating in compliance with policies and procedures. We have included our specific findings, recommendations, and other pertinent information in the report. The Santa Cruz Area agreed with all of the findings and plans to take corrective action to improve operations.

The Santa Cruz Area will be required to provide a 30 day, 60 day, six month, and one year response on its corrective action plan implementation. If identified issues are resolved and addressed during any phase of the above reporting period, no future action is required on their behalf. The Office of Inspector General anticipates conducting a follow-up review within one year from the date of the final report.

Additionally, in accordance with the *International Standards for the Professional Practice of Internal Auditing* and Government Code §13887(a)(2), this report, the response, and any follow-up documentation is intended for the Office of the Commissioner; Assistant Commissioner, Field; Office of Inspector General; Office of Legal Affairs; Coastal Division; and the Santa Cruz Area. Please note this report restriction is not meant to limit distribution of the report, which is a matter of public record pursuant to Government Code §6250 et seq.

In accordance with the Governor's Executive Order S-20-09 to increase government transparency, the final audit report, including the response to the draft audit report, will be posted

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on the internet website of the CHP, and on the Office of the Governor webpage, located on the State Government website.

The Office of Inspector General would like to thank management and staff of the Santa Cruz Area for their cooperation during the audit. If you need further information, please contact me at (916) 843-3160.



R. J. JONES, Captain
Interim Inspector General

cc: Assistant Commissioner, Field
Coastal Division
Santa Cruz Area
Office of Legal Affairs
Office of Inspector General, Audits Unit

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

COMMAND AUDIT OF SANTA CRUZ AREA

OFFICE OF INSPECTOR GENERAL, AUDITS UNIT

OCTOBER 7, 2010

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EXECUTIVE SUMMARY

The Commissioner has the responsibility, by statute, to enforce laws regulating the operation of vehicles and use of highways in the State of California and to provide the highest level of safety, service, and security to the people of California. Consistent with the 2009 Audit Plan of the California Highway Patrol (CHP), the Office of the Commissioner directed the Office of Inspector General, Audits Unit, to perform an audit of the Santa Ana Area.

The 2008-2010 Strategic Plan of the CHP highlights the mission statement which includes five broad strategic goals designed to guide the direction of the CHP. One strategic goal is to continuously look for ways to improve the efficiency of departmental operations.

The objective of the audit is to determine if the command has complied with operational policies and procedures regarding the Driving Under the Influence (DUI) Cost Recovery and Asset Forfeiture Programs. Additionally, this audit will provide managers with reasonable, but not absolute, assurance that departmental operations are being properly executed. The audit period was from January 1, 2008 through November 1, 2009. However, to provide a current evaluation of the command, primary testing was performed of business conducted during the period April 1, 2009 through September 30, 2009. The audit included a review of existing policies and procedures, as well as examining and testing recorded transactions to determine compliance with established policies, procedures, and good business practices. The audit field work was conducted from November 2 - 6, 2009.

Sample selection for this audit was primarily random. However, if a judgmental sample was necessary, the auditor selected accordingly. Whenever possible the use of risk assessment was used to select a sample containing the highest probability of risk to the command.

Based on the review of operations in the Santa Cruz Area, this audit revealed the Area has complied with most operational policies. However, some issues were observed. The following is a summary of the identified issues:

Asset Forfeiture (AF) Program

- The command did not perform annual AF training.
- The Area Asset Forfeiture Coordinator (AFC) was not trained annually by the Division AFC.
- The command did not review the AF Memorandum of Understanding (MOU) annually and forward copies of renewed MOUs to their Division in a timely manner.

DUI Cost Recovery Program

- The command did not always forward the CHP 735, Incident Response Reimbursement Statement, forms to Fiscal Management Section (FMS) in a timely manner.
- The command did not reconcile the quarterly DUI Cost Recovery reports received from FMS to their CHP 735 forms.

Please refer to the Findings and Recommendations section for detailed information.

AUDIT REPORT

INTRODUCTION

To ensure the operation of the California Highway Patrol (CHP) is efficient and internal controls are in place and operational, the Office of the Commissioner directed the Office of Inspector General, Audits Unit, to perform an audit of the Santa Cruz Area.

The 2008-2010 Strategic Plan of the CHP highlights the mission statement which includes five broad strategic goals designed to guide the direction of the CHP. One strategic goal is to continuously look for ways to improve the efficiency of departmental operations. This audit will assist the CHP in meeting this goal.

OBJECTIVE AND SCOPE

The objective of the audit is to determine if the command has complied with operational policies and procedures regarding the Driving Under the Influence (DUI) Cost Recovery and Asset Forfeiture Programs that provide managers with reasonable, but not absolute, assurance departmental operations are being properly executed. The audit period was from January 1, 2008 through November 1, 2009. However, to provide a current evaluation of the command, primary testing was performed of business conducted during the period April 1, 2009 through September 30, 2009. This audit included a review of existing policies and procedures, as well as examining and testing recorded transactions to determine compliance with established policies, procedures, and good business practices. The audit field work was conducted from November 2 - 6, 2009.

METHODOLOGY

Under the direction of the Office of the Commissioner, each command was randomly selected to be audited in the areas of DUI Cost Recovery and Asset Forfeiture Programs. Sample selection of areas to be audited were primarily random or judgmental. Whenever possible the use of risk assessment was used to select a sample containing the highest probability of risk to the command.

There were no prior audit reports and findings of this command.

OVERVIEW

Asset Forfeiture (AF) Program: The command complied with most state laws and departmental policies and has adequate internal controls for the AF Program. However, the command did not always perform Annual Asset Forfeiture training; the Area Asset Forfeiture Coordinator (AFC) was not trained annually by the Division AFC; and the command did not

review the AF Memorandum of Understanding (MOU) annually and forward copies of renewed MOUs to their Division in a timely manner.

DUI Cost Recovery Program: The command was compliant with most state laws and departmental policies and has adequate internal controls for the DUI Cost Recovery Program. However, the command did not always forward the CHP 735, Incident Response Reimbursement Statement, forms to Fiscal Management Section (FMS) in a timely manner; and did not reconcile the quarterly DUI Cost Recovery reports received from FMS to their CHP 735 forms.

This audit revealed the command has adequate operations, nevertheless, issues were discovered, which if left unchecked could have a negative impact on the command and CHP operations. These issues should be addressed by management to maintain compliance with appropriate laws, regulations, policies, and procedures. The issues and appropriate recommendations are presented in this report.

As a result of changing conditions and the degree of compliance with policies and procedures, the efficiency and effectiveness of operations change over time. Specific limitations that may hinder the efficiency and effectiveness of an otherwise adequate operation include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, fraud, and management overrides. Establishing compliant and safe operations and sound internal controls would prevent or reduce these limitations; however, an audit may not always detect these limitations.

FINDINGS AND RECOMMENDATIONS

ASSET FORFEITURE (AF) PROGRAM

FINDING 1: **The command did not perform annual AF training.**

Condition: In 2008, the command did not perform annual AF training for supervisors, officers, and affected non-uniformed personnel.

Criteria: Health and Safety Code Section 11469 states, "Seizing agencies shall implement training for officers assigned to forfeiture programs, which training should be ongoing."

Highway Patrol Manual (HPM) 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 21.b. states:

"b. Area AFCs shall provide training for Area supervisors, officers, and affected non-uniformed personnel at least once a year. Area AFCs shall ensure officers are made aware of local MOUs with allied agencies/NTFs regarding turnover of arrests for controlled substance violations and are familiar with the legal requirements and departmental policies/procedures related to the seizure of assets."

Recommendation: The command should comply with departmental policy related to annual AF training.

FINDING 2: **The Asset Forfeiture Coordinator (AFC) was not trained annually by the Division AFC.**

Condition: There was no documented evidence the AFC was trained by the Division in 2008. However, the Area AFC received annual AF training from the Division AFC in 2009.

Criteria: Health and Safety Code Section 11469 states: "Seizing agencies shall implement training for officers assigned to forfeiture programs, which training should be ongoing."

HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 21.a. states:

"a. In order to ensure uniformity throughout the Department, Division AFCs shall receive annual training from the departmental AFC coordinator in FSS. The training will encompass asset forfeiture laws, pending state and/or federal legislation relating to asset forfeiture, departmental policies, and procedures. Division

AFCs will in turn provide annual training to Area AFCs, uniformed employees assigned to NTFs, canine handlers, and affected non-uniformed employees involved with asset forfeiture. The training shall be of sufficient duration to ensure full understanding of legal/policy requirements. In addition, Division AFCs should attend Division Area Commanders' Conferences as necessary to provide commanders with an overview of the Department's AFP and any related new legislation or updates to departmental policy."

Recommendation: The command should ensure the command's AFC is trained annually by the Division AFC to comply with the departmental policy.

FINDING 3: **The command did not review the AF Memorandum of Understanding (MOU) annually and forward copies of renewed MOUs to their Division in a timely manner.**

Condition: The command signed AF MOUs with ten allied law enforcement agencies in 2007. These MOUs address the responsibilities of each agency including criteria for being called to drug arrests, cash handling procedures, and asset forfeiture equitable share distributions. These MOUs were not reviewed in either 2008 or 2009 and subsequently forwarded to the Division AFC by February 1 as required by policy.

Criteria: HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 4.b, states:

"b. Annual Review. Area AFCs shall review their respective MOUs annually in order to ensure the agreements are current. Area AFCs shall forward copies of renewed MOUs to their Division no later than February 1 of each year. Divisions shall forward copies to FSS no later than March 1. For MOUs not requiring renewal, the Area AFC shall sign and date the MOU on the signature page with the notation "Reviewed - no changes required."

Recommendation: The command should comply with departmental policy regarding the annual review of AF MOUs.

DRIVING UNDER THE INFLUENCE (DUI) COST RECOVERY PROGRAM

FINDING 1: **The command did not always forward the CHP 735, Incident Response Reimbursement Statement, forms to Fiscal Management Section (FMS) in a timely manner.**

Condition: From a population of 85 CHP 735 billing packages, 36 packages were tested. In 17 (47 percent) of the packages tested, the CHP 735 forms were not forwarded to FMS in a timely manner. A delay of 14 to 47 days was observed.

Criteria:

Government Code (GC) Section 13403 (a)(3), (4), and (6) articulates the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to the following: A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures; an established system of practices to be followed in performance of duties and functions in each of the state agencies; and an effective system of internal review.

HPM 11.1, Administrative Procedures Manual, Chapter 20, DUI Cost Recovery Program, paragraph 4.b. states:

“b. Completion of CHP 735, Incident Response Reimbursement Statement. The cost recovery criterion is separated into two separate sections on the CHP 735, Incident Response Reimbursement Statement: Section A or Section B. Section A shall be completed when the billing is based on arrest. Section B shall be completed when the billing is based on conviction. Forward only those forms which meet ALL the criteria in either Section A or Section B; only one section shall be completed per case.

(1) Completed CHP 735s, Incident Response Reimbursement Statements, based on Section A (refer to Annex B) shall be forwarded to Fiscal Management Section (FMS), Reimbursable Services Unit, within ten business days of one of the following dates:

(a) The date BAC results of .08% or greater are received.

(b) The date BAC results of .04% or greater are received for a commercial driver.

(2) Completed CHP 735s, Incident Response Reimbursement Statements, based on Section B (refer to Annex C) shall be forwarded to FMS, Reimbursable Services Unit, within ten business days of the notification of a conviction of CVC Sections 23152, 23153, or greater offense as a result of one of the following:

(a) In the case of a refusal.

(b) An arrest for drugs only.

(c) A BAC of less than .08%.”

Recommendation: The command should forward the CHP 735 forms to FMS in a timely manner to comply with the departmental policy for the DUI Cost Recovery Program.

FINDING 2: **The command did not reconcile the quarterly DUI Cost Recovery reports received from FMS to their CHP 735 forms.**

Condition: There was no documented evidence indicating the command reconciled the quarterly DUI Cost Recovery report received from FMS to assist in monitoring and timely submission of their CHP 735 forms.

Criteria: GC Section 13403 (a)(3), (4), and (6) articulates the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to the following: A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures; an established system of practices to be followed in performance of duties and functions in each of the state agencies; and an effective system of internal review.

HPM 11.1, Administrative Procedures Manual, Chapter 20, DUI Cost Recovery Program, paragraph 8, states:

“8. QUARTERLY REPORTS. Fiscal Management Section will send quarterly reports to field commands. These reports are designed to assist in the monitoring and timely submission of the command’s CHP 735, Incident Response Reimbursement Statement, forms. The report notes the date of arrest or conviction, the date the CHP 735, Incident Response Reimbursement Statement, was received in FMS and the billed date. It also provides the number of days between the arrest or conviction date and date the CHP 735, Incident Response Reimbursement Statement, was received in FMS. Field commands are responsible for ensuring the CHP 735, Incident Response Reimbursement Statement, is submitted in accordance with paragraphs 3 and 4 of this chapter.”

Recommendation: The command should reconcile the DUI Cost Recovery report received from FMS on a quarterly basis to the CHP 735 forms to comply with the departmental policy for the DUI Cost Recovery Program.

CONCLUSION

Based on the review of the operation of the Santa Cruz Area, this audit revealed the command has adequate operations. However, some issues were observed. This report presents suggestions for management to improve on some operations. In doing so, operations would be strengthened and the command would operate in accordance with departmental policies and procedures.

ANNEX

A

M e m o r a n d u m

Date: September 9, 2010

To: Coastal Division

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Santa Cruz

File No.: 720.10235

Subject: OFFICE OF INSPECTOR GENERAL (OIG) DRAFT 2009 COMMAND
AUDIT REPORT FOR SANTA CRUZ AREA

This memorandum was prepared in response to the OIG Draft 2009 Command Audit Report for the Santa Cruz Area. Specifically, this memorandum addresses several minor discrepancies noted in the report as they related to Area's Asset Forfeiture (AF) Program and Driving Under the Influence (DUI) Cost Recovery Program. Area agrees with all report findings and recommendations. As such, the following is a summary of proposed corrective action plans.

AF Program:

Finding 1: "The command did not perform annual AF training.

Recommendation: "The command should comply with departmental policy related to annual AF training."

Area Response: This issue was addressed with the Area Training Sergeant and Training Officer. Annual AF Training will be included in the training officer's annual training schedule. Additionally, AF Training will be conducted at the next available training day

Finding 2: "The command's Asset Forfeiture Coordinator (AFC) was not trained annually by the Division AFC.

Recommendation: "The command should ensure the command's AFC is trained annually by the Division AFC to comply with the departmental policy."

Area Response: Area's AFC and Evidence Officer received AF Training on September 29, 2009. Area will schedule any new AFC(s) for training as it becomes available through Division. As of today, Division AFC training is tentatively scheduled for June 2011.

Finding 3: "The command did not review AF Memorandum of Understanding (MOU) annually and forward copies of renewed MOUs to their Division in a timely manner."

Recommendation: "The command should comply with departmental policy regarding the annual review of AF MOUs"

Area response: Area reviewed and signed the county's AF MOU in 2009. Unfortunately, the original was mailed in June 2009, to the Department of Justice (DOJ) for signature, and has not

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yet been returned. This issue was discussed at the Santa Cruz County Anti-Crime Task Force Council Meeting on June 17, 2010. In the meeting, DOJ Special Agent In-Charge (SAC) Bob Cook related that he hoped to receive the signed MOU in the near future. This item was also discussed with the current AFC and management, and will be placed in suspense for future reporting. Additionally, a copy of the current MOU with required notations has been submitted to the Division AFC for 2010 reporting purposes.

DUI Cost Recovery Program:

Finding 1: "The command did not always forward the CHP 735, Incident Response Reimbursement Statement, forms to Fiscal Management Section (FMS) in a timely manner."

Recommendation: "The command should forward the CHP 735 forms to FMS timely to comply with the departmental policy for the DUI Cost Recovery Program."

Area Response: Area is currently in the process of developing a more efficient computerized tracking system to improve the timely submission of CHP 735s. Specifically, area is in the process of identifying desired system functions and abilities.

Finding 2: "The command did not reconcile the quarterly DUI Cost Recovery reports received from FMS to their CHP 735 forms."

Recommendation: "The command should reconcile the DUI Cost Recovery report received from FMS on a quarterly basis to the CHP 735 forms to comply with the departmental policy for the DUI Cost Recovery Program."

Area Response: Area will incorporate the use of DUI Cost Recovery Reports in the new tracking system process.

Santa Cruz Area is committed to enhancing internal processes and efficiency. As such, a copy of this memorandum will be placed in suspense for appropriate follow-up. Should you have any questions or desire additional information, please contact me at (831) 662-0511.


C. MANRIQUEZ, Captain

APPROVED:  2/20/10